

THE TOWER OPTICAL COMPANY, INC.

ARTICLES OF AGREEMENT

Agreement entered into this 30<sup>th</sup> day of July, 2015 by and between

City of Newport  
169 SW Coast Highway  
Newport, OR 97365

(hereinafter: **City of Newport**)

and

The Tower Optical Company, a corporation  
organized and existing under the laws of the  
State of Connecticut, with its office and  
principal place of business in Norwalk, in the  
State of Connecticut

(hereinafter: TOWER OPTICAL).

In consideration of the mutual covenants and agreements herein contained, City of Newport and TOWER OPTICAL understand and agree to the following:

1. EQUIPMENT

TOWER OPTICAL shall provide Two (2) Tower Optical coin-operated viewer(s) for installation at mutually agreed upon site(s) on the property of **City of Newport** in the City of Newport, County of Lincoln, State of Oregon. TOWER OPTICAL is and shall remain the sole owner of all viewers installed under this agreement. Viewers may not be altered or modified in any way without the express written consent of Tower Optical.

2. TERM

The term of this agreement shall begin on the 30<sup>th</sup> day of July, 2015 and shall continue until terminated as described in Section 7.

/////

### 3. FINANCIAL PROVISIONS

**City of Newport** agrees to collect all monies from said viewer(s) on a regularly scheduled basis and shall forward by mail to:

Name: The Tower Optical Company, Inc.  
Address: P.O. Box 251  
South Norwalk, CT 06856-0251

Such sum or sums of money as shall represent the collections made by **City of Newport**, less Fifty percent (50%) during the term provided for herein, which said sums of money **City of Newport** shall retain for rent and/or services in the collection of said monies.

Sales taxes levied by City, County or State on gross receipts from viewer(s) installed under this agreement shall be deducted and paid from the gross receipts by **City of Newport**, as collector and remitter of monies, after which said parties' share of such receipts shall be calculated.

### 4. EXCLUSIVITY

TOWER OPTICAL shall have exclusive right to the operation of binocular or telescopic viewer(s) rented or operated by coin on the property described herein.

### 5. LIABILITY

**City of Newport** shall notify Tower Optical regarding any viewer and/or installation covered under this agreement which is deemed unsafe for public use. TOWER OPTICAL shall assume all risks of damage, theft, pilferage, and vandalism, and **City of Newport** shall not be held responsible for any damage to the said viewer(s) while the same are installed on the property described herein, so long as the damage is not caused by negligence or intentional misconduct of **City of Newport**.

### 6. SERVICE

TOWER OPTICAL officers and employees, or duly appointed agents, shall have free access to go upon the property described herein for the purpose of installing and/or removing its viewer(s), and/or collecting, servicing, repairing and maintaining the same.

/////

7. TERMINATION

Either party may terminate this agreement any time after the 30th day of June, 2016, by giving the other party written notice by registered mail at least 30 days before the desired termination date.

8. APPLICABLE LAW/VENUE

This Agreement shall be construed under the applicable laws of the State of Oregon. The parties consent to the jurisdiction of the Circuit Court of Oregon in Lincoln County over all matters pertaining to this Agreement.

9. ATTORNEY'S FEES

In the event Tower Optical is required to begin legal proceedings to enforce the terms and provisions of this agreement, its damages shall include all costs and reasonable attorney's fees.

9. ENTIRE AGREEMENT

This agreement constitutes the final and complete agreement of the parties concerning Tower Optical viewer installation as herein described. This agreement may be changed only by written notification that is signed by both parties.

THE TOWER OPTICAL COMPANY, INC.

City of Newport

Signature



Printed Name

Gregory P. Rising

Date:

7/23/15

Signature



Printed Name

Spencer R. Nobel

Date:

07-30-15

Approved as to Form



City Attorney